

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ABBOTT CARDIOVASCULAR SYSTEMS, INC. and ABBOTT LABORATORIES, INC.,)
)
Plaintiffs,)
)
v.) Civ. No. 98-80-SLR
) (Consolidated with Civ. Nos.
MEDTRONIC VASCULAR, INC. and MEDTRONIC USA, INC.,) 98-314-SLR and 98-316-SLR)
)
Defendants.)

O R D E R

At Wilmington this 6th day of August, 2007, having reviewed the joint motion for entry of a discovery and briefing schedule on plaintiffs' motion for a permanent injunction, and defendants' motion to stay plaintiffs' motion for a permanent injunction pending arbitration, as well as the papers filed in connection therewith;

IT IS ORDERED that defendants' motion to stay (D.I. 732) is granted to the extent it relates to the "Endeavor" stent, for the reasons that follow:

1. Although the "Endeavor" stent has never been an accused product in this case, the court understands that the "Endeavor" stent is a drug-eluting stent that uses as its platform one of the devices found to be infringing at bar. In response to plaintiffs' motion for a permanent injunction that includes within its scope the "Endeavor" stent, defendants assert that they have a license to market the "Endeavor" and, further, that the license requires any dispute thereunder to be resolved through arbitration.

2. The court finds that the "Endeavor" licensing issue is sufficiently distinct from the question of whether a permanent injunction should issue as to the products found to be infringing at bar as to justify going forward with discovery and briefing on the latter issue, while staying the proceedings as to the "Endeavor" stent.

3. Therefore, the parties shall comply with the following schedule:¹

- a. Limited discovery under eBay, Inc. V. MercExchange, L.L.C., 126 S.Ct. 1837 (2006), may be conducted so as to be completed by September 21, 2007.
- b. Defendants' opposition to plaintiffs' motion for a permanent injunction shall be filed on or before October 22, 2007.
- c. Plaintiffs' reply brief shall be filed on or before November 5, 2007.



United States District Judge

¹The parties' joint motion for a scheduling order (D.I. 743) is moot.